

DRAFT



CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
TUESDAY, FEBRUARY 20, 2007

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Alster, Edens, Marraffa, Schlichting and Sesma. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Director of Finance and Administration Belton, Planning and Code Administration Director Ossont, Planner Robinson, Police Chief Viverette, Officers Grimes and Scheck, Parks, Recreation and Culture Programs Director McGuire, Director of Community Development Kauffmann, Administrative Assistant II Srinivasachar, City Attorney Borten and Executive Assistant Stokes.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Assistant City Manager Felton.

II. INVOCATION

The invocation was led by Pastor Sarah Lewis, St. Luke's Lutheran Church.

III. APPROVAL OF MINUTES

Motion was made by Council Member Edens, seconded by Council Member Alster, that the minutes of the Mayor and Council meeting held February 5, 2007, be approved.

Vote: 5-0

IV. CONSENT ITEMS

1. Resolution of the Mayor and City Council Awarding a School Playground Matching Grant for a New Playground at Gaithersburg Elementary School

The Mayor and City Council determined that the project is worthwhile and in the public best interest to award the above grant and offset the total cost of Twelve Thousand Dollars (\$12,000), for the new playground. This resolution authorized the City Manager to disperse funds to Playground Specialists, Incorporated, 17352 North Seton Avenue, Emmitsburg, Maryland 21727, in the amount of Six Thousand Dollars (\$6,000); said funds to be expended from the Capital Improvements Budget.

2. Resolution of the Mayor and City Council Authorizing the City Manager to Award a Contract for Sanctioned Official Services for City Sponsored Programs for Adult and Teen Softball to Greater Washington Softball Umpires Association

This resolution authorized the City Manager to award a contract to Greater Washington Softball Umpires Association, 9540 Liberty Road, Frederick, Maryland 21701, in an amount not to exceed Nine Thousand Seventy-Five Dollars (\$9,075); said funds to be expended from the Operating Budget.

3. **Resolution Authorizing the City Manager to Negotiate and Execute a Renewal of Retention Agreement with Special Counsel Stanley D. Abrams, Esq.**

This resolution authorized the City Manager to negotiate and execute a Renewal of Retention Agreement with Stanley D. Abrams, Esq., 4550 Montgomery Avenue, Suite 760N, Bethesda, Maryland 20814, in the amount of Twenty-Four Thousand Dollars (\$24,000); said funds to be expended from the Operating Budget.

Motion was made by Council Member Alster, seconded by Council Member Marraffa, that the Consent Agenda (Resolution Nos. R-13-07 through R-15-07), be approved.

Vote: 5-0

V. **PRESENTATIONS**

1. **Introduction of New Police Officers**

Police Chief Viverette introduced the following newly hired police officers: **Officer Brian Grimes and Officer Charles Scheck**, both hired in December 2006. Before coming to the Gaithersburg Police Department, both Officers were with the City of Atlanta, Georgia.

2. **Readings by the Winners of the National CHARACTER COUNTS! Week Adult Heroes in OUR Community Writing Contest**

Administrative Assistant II Srnivasachar stated that the City partners with the Gaithersburg and Montgomery Village Rotary Clubs and the *Gazette Newspapers*. On October 19, 2006, a reception was held at the Activity Center at Bohrer Park for the contest winners, honorable mentions, families, and teachers. The winners from Lakelands Park Middle School (Principal Joseph Sacco and Assistant Principal Carrie Reed) were: Fiona Attix, Danielle Chikkaswamy, Daniel Fishback (not present), and Grace Reichardt.

3. **Presentation of the City of Gaithersburg's Government Finance Officer's Association (GFOA) Distinguished Budget Presentation Award**

Director of Finance and Administration Belton presented to the Mayor and City Council, the GFOA Distinguished Budget Presentation Award for the 2006 fiscal year. The City's budget has received this award for the fifth year. Staff was commended on their hard work.

4. **Certificate of Appreciation**

Mayor Katz presented the above certificate to Beautification Committee Member Frank Mate, appointed to the committee in January 2000. Since his appointment, Dr. Mate has participated and contributed to numerous City events that educated, promoted and recognized beautification efforts in the City. In the last few years, he has worked with the committee on developing and implementing the Gaithersburg Beautification Awards program.

5. **Certificate of Recognition**

Mayor Katz presented the above certificate to John Stepek, recipient of the 2007 Mid – Atlantic Recreation and Sports Alliance Award. Each year, public and private recreation departments as well as sports associations are encouraged to nominate deserving coaches that exemplify the philosophy of youth sports. Mr. Stepek is recognized for his service as a volunteer coach for the youth soccer and roller hockey programs since 1999. Throughout his coaching tenure, Mr. Stepek placed an emphasis on skill development, fair play and sportsmanship. On February 5, 2007, Mr. Stepek was recognized at a session of the Maryland House of Delegates.

6. Humane Society of the United States

Representing the Humane Society, Mr. Paul Shapiro, gave a brief presentation on their mission and highlighted some of the organizations current initiatives. The Human Society of the United States which is the nation's largest animal welfare charity is headquartered in Gaithersburg. He stated that the organization provides support to local animal shelters, run neuter services in improvised communities and work with local law enforcement on cruelty cases. He stated that the Humane Society is initiating a measure across the country to improve the lives of animals that are used for food and ensure that those animals have proper living conditions. He presented information on the conditions of battery caged chickens that are kept for egg production in the United States. Mr. Shapiro stated that there is a cage free egg policy being adopted by several businesses opposed to the battery cage farms across the country. He asked the City to consider passing a resolution supporting cage free egg production rather than battery caged. Packets on the matter were submitted to the Mayor and City Council for review.

VI. PUBLIC APPEARANCES

1. *Linus Klitsch, 9320, Edgewood Court*, referred to the teaching programs for the youth offered at the Spanish Catholic Center. He asked the City to provide a grant to expand the services of the center to include teaching other ethnic groups.
2. *(inaudible) Reilly, 104 Sunnybrook Terrace*, asked the Mayor and City Council to join *On Our Own of Montgomery County* for a tea event in May/June to meet those that use the mental health services provided by the organization. She stated that invites will be forthcoming.
3. *Prentiss Searles, 10 Walker Avenue*, asked the City Council to take action on the anti-solicitation ordinance scheduled for a vote.
4. *Beth (inaudible), Saybrooke Community*, complimented the City on snow removal throughout the City and encouraged the public to remove their cars from the streets so that staff can do their jobs.
5. *Demos Chrissos, Tschiffely Square Road*, reminded the Mayor and City Council that the Gaithersburg community has spoken and encouraged the City Council to vote on the anti-solicitation ordinance due to safety issues.

VII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS**Council Vice President Alster**

1. Stated that he, Mayor Katz and Council Member Sesma participated in a ceremony for a Chinese New Year Celebration at Lakeforest Mall.
2. Congratulated the participants and winners of the Adult Heroes Essay Writing Contest.

Council Member Marraffa

1. Echoed congratulations to the essay writing contest winners.
2. Stated that he and Council Member Schlichting participated and judged the models created by middle school students for the engineering program/contest called "Future Cities." He asked that the City promote the program and that Gaithersburg area schools become more involved.

Council Member Sesma

1. Referred to the Chinese New Year Celebration he attended on February 17, 2007.
2. He also echoed congratulations to the participants and winners of the Adult Heroes essay writing contest.
3. Welcomed Officers Grimes and Scheck to the Gaithersburg Police Department.
4. Thanked Public Works staff on their heroic efforts to plow City streets and clean sidewalks. He questioned the City's emergency preparedness for public safety during a storm situation that recently occurred. He asked that there be a better approach for maintaining the safety of the public when such a situation occurs. He expressed concern with pedestrian traffic safety at bus stops and impassable sidewalks. He stated that there should be an emergency regional policy to prepare and handle such storm situations. He suggested the involvement of the Metropolitan Washington Council of Governments.

All concurred that staff did an admirable job, but asked that the City do more to educate the public on the operation of the City and what is required from the public during a storm. Staff was directed to schedule a work session for the Mayor and City Council and the public to receive a briefing on snow operations for the City of Gaithersburg and to consider a different system, other solutions, if necessary. City Manager Humpton stated that he met with staff to discuss options of what's next to deal with the current situation. He added that the recent snow storm was unusual for the State of Maryland.

Council Member Schlichting

1. Followed up on his participation at the "Future Cities" national competition. He stated that he has participated in the event for the past five to six years. He mentioned that Carol Rieg, resident of Gaithersburg and Board of Appeal Members, is the executive director.
2. Attended the State of the City Dinner on Thursday, February 15, 2007 to recognize the City's volunteers. He commended staff on a wonderful job and thanked all that came out in spite of the weather to celebrate the City. He complimented the efforts of the Public Information Office staff on the video shown.
3. Announced that registration for Gaithersburg's summer camp programs is underway. A complete listing is on the City's website at www.gaithersburgmd.gov or the public can pick up a 2007 "Summer in the City" Guide at the Activity Center at Bohrer Park.

Mayor Katz

1. Referred to the request from Mr. Charles Cohen at the February 5, 2007 meeting of the Mayor and City Council. Mr. Cohen asked the City to support the proposed naming of the Rockville Memorial Library. The Mayor and City Council all concurred that it is a county library and the decision for the naming of the new library in Rockville should be made by those in the community.
2. He proposed placing a memorial plaque to honor local residents who lost their lives in the Iraq and Afghanistan wars. All concurred that it would be appropriate to place a formal plaque at Christman Park.

3. Announced the following meeting schedule:

- no work session on February 26, 2007 at City Hall.
- Community Workshop on Monday, February 26, 2007 at Lakelands Park Middle School located at 1200 Main Street. The workshop is being held to give the public an opportunity to review an initial concept plan for the new Gaithersburg Indoor Aquatic and Recreation Center at Edison Park Drive.
- regular meeting of the Mayor and City Council on Monday, March 5, 2007.

VIII. ORDINANCES, RESOLUTIONS, AND REGULATIONS

1. Resolution to Negotiate and Execute a Payment in Lieu of Taxes (PILOT) Agreement

Director of Community Development Kauffmann stated that the City has supported the Housing Opportunities Commission (HOC) and Montgomery County to purchase Forest Oak Towers (175 unit affordable housing for elderly and disabled residents) located in Gaithersburg. She further stated that HOC has a contract in place for the acquisition of said property and has asked the City to execute a PILOT Agreement with Forest Oak Towers Limited Partnership with HOC as the general manager. The agreement would allow HOC to pay only \$1 per year in property taxes. Based on the proposed acquisition price, the City estimates an offset of annual property tax revenue in the amount of \$44,150. In response to a question, Mrs. Kauffmann stated that Montgomery County is doing the same for HOC.

Motion was made by Council Member Sesma, seconded by, Council Member Schlichting, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PAYMENT IN LIEU OF TAXES (PILOT) AGREEMENT WITH FOREST OAK TOWERS LIMITED PARTNERSHIP (Resolution No. R-16-07), be approved.

Vote: 5-0

2. Resolution Awarding a Matching Grant to The Orchards Homeowners Association

This resolution authorized the City Manager to award a matching grant to The Orchards Homeowners Association for lighting improvements. The grant will be awarded upon determining that the project is completed as proposed in the total amount of Five Thousand Dollars (\$5,000); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Alster, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AWARDING A MATCHING GRANT TO THE ORCHARDS HOMEOWNERS ASSOCIATION (Resolution No. R-17-07), be approved.

Vote: 5-0

IX. POLICY DISCUSSION AND STAFF GUIDANCE

1. **Z-303(o), Proposal to Rezone 1.2099 Acres of Land, Currently Known as Lot P-87, the Duane Property, Located Off Game Preserve Road Between Arrowsmith Court and Travis Avenue in the City of Gaithersburg, From the Existing C-2 (General Commercial) Zone to the E-1 (Urban Employment) Zone, Under the Optional Method of Rezoning, in Accordance With §24-196 (map amendments) and §24-198 (optional method) of the City Code)**

Planner Robinson stated a joint public hearing was held on the rezoning application on September 18, 2006; with both records of the Mayor and City Council and Planning Commission held open indefinitely to address two key issues; architectural elevations and concerns about Old Game Preserve Road. Mr. Robinson reoriented the Mayor and City Council to the site, gave a brief synopsis of staff's analysis and discussed the solutions to the issues raised. To date, there has been resolution of the issues and the Planning Commission closed its record on January 10, 2007 and recommended approval on January 17, 2007, with the following four (4) conditions: 1) Applicant is to record the Covenant for Z-303(o) in the Land Record of Montgomery County before the submission of final record plats; 2) Applicant is to execute the Pepco land purchase for additional Old Game Preserve Road right-of-way and improvements and dedicate said portion of road to the City of Gaithersburg by the recordation of final record plats; 3) Applicant is to complete off-site road improvements to the City-maintained portion of Old Game Preserve Road before the issuance of occupancy permits; and 4) Applicant is to complete off-site storm water management improvements to the Montgomery County maintained portion of Old Game Preserve Road before the issuance of occupancy permits. The Mayor and City Council expressed support for the improved plan.

Motion was made by Council Member Marraffa, seconded by Council Member Schlichting, that the above Ordinance (Ordinance No. O-5-07), be adopted.

Vote: 5-0

2. **An Ordinance to Repeal and Reenact With Amendments Section 15-4 of the City Code, Entitled "Loitering," so as to Clarify Existing Language With Regard To Prohibited Conduct, and Section 15-9, Entitled "Solicitation in Roadways," so as to Expand the Applicability of the City's Prohibition on Solicitation Specific to this Chapter**

City Attorney Borten stated the Mayor and City Council held a policy discussion on January 2, 2007 and based on matters with the county and questions raised, action on the ordinance was deferred. On February 5, 2007, the Mayor and City Council directed staff to amend the proposed ordinance with language to delay the effective date until such time as an employment center was opened by the county and operational. City Attorney Borten was asked to clarify the amended effective date language to Section 15-9(f) and directed to make an additional amendment.

Motion was made by Council Member Marraffa, seconded by Council Member Alster, that the above Ordinance (Ordinance No. O-4-07), be adopted with the additional amended language to Section 15-9(f).

Vote: 4-1 (Edens)

X. FROM THE ASSISTANT CITY MANAGERS, CITY ATTORNEY AND OTHER STAFF

- **Guidance on memorandum dated February 15, 2007 regarding the City Mayor and City Council Compensation Committee**

Assistant City Manager Felton stated that in response to a citizen suggestion, staff is requesting guidance to prepare a draft charge for an Ad Hoc Citizens Committee to review the Mayor and City Council's compensation and provide recommendations as to whether any adjustments are appropriate. Following the Mayor and City Council's review of the draft resolution and charge of the proposed committee, an announcement was made to create such a committee and asked interested citizens to submit letters of interest by March 20, 2007.

XI. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 8:55 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant